

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Action No. 12-cv-00487-MOC-DCK

DAVID HOLMES, HERTA S. THEBERGE,
MARGUERITE K. POTTER, and the
MARGUERITE K. POTTER REVOCABLE
TRUST, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

BANK OF AMERICA, N.A., in its own
capacity and as successor by merger to
BAC Home Loans Servicing, L.P., SEATTLE
SPECIALTY INSURANCE SERVICES,
INC., in its own capacity and as successor in
interest to COUNTRYWIDE INSURANCE
SERVICES, INC., ILLINOIS UNION
INSURANCE COMPANY, and CERTAIN
UNDERWRITERS AT LLOYD'S LONDON,
including all underwriters who underwrote
force-placed wind insurance policies for Bank
of America, as the insured during the
applicable limitations period and LLOYD'S
UNDERWRITERS AT, LONDON,

Defendants.

JOINT MOTION TO AMEND THE BRIEFING SCHEDULE ON ALL DEFENDANTS'
MOTIONS TO DISMISS

WHEREAS, Illinois Union Insurance Company ("Illinois Union"), Seattle Specialty Insurance Services, Inc. ("Seattle Specialty"), and Bank of America, N.A., in its own capacity and as successor by merger to BAC Home Loans Servicing, L.P. ("Bank of America"), each filed a Motion to Dismiss Plaintiffs' Amended Complaint on December 17, 2012 (ECF Nos. 72, 70 and 87 respectively); and

WHEREAS, CERTAIN UNDERWRITERS AT LLOYD'S LONDON, including all underwriters who underwrote force-placed wind insurance policies for Bank of America, as the insured during the applicable limitations period ("Lloyd's") intend to file a Motion to Dismiss Plaintiffs' Amended Complaint on or before December 31, 2012 pursuant to the Court's Order (ECF No. 62); and

WHEREAS, the parties wish to harmonize the briefing schedule on the various motions to dismiss; and

WHEREAS, the Court has already granted Plaintiffs an extension to respond to Bank of America's Motion to Dismiss and has ordered that the Plaintiffs' opposition brief shall be filed on or before January 31, 2013 (ECF No. 69) and the instant request would make that date the due date as to all Defendants; and

WHEREAS, good cause exists to grant Plaintiffs an extension to respond to Seattle Specialty's, Illinois Union's, and Lloyd's Motions to Dismiss on or before January 31, 2013 for, *inter alia*, the following reasons:

- Plaintiffs believe that this extension will afford them adequate time to review the briefs filed by all Defendants (including Lloyd's yet to be filed Motion to Dismiss) before having to file their opposition briefs to any of the Defendants' Motions to Dismiss and avoid putting Plaintiffs in the position of having to respond to some Defendants' motions only days after seeing the arguments raised by their co-Defendants;
- Plaintiffs believe that having a single date by which responses to all Defendants' motions are due will best allow Plaintiffs to avoid unnecessary repetition in multiple briefs by allowing Plaintiffs to make cohesive arguments in a concerted

fashion; and

- Several of the undersigned Plaintiffs' counsels have out of town travel scheduled for the holiday season.

WHEREAS, establishing a uniform briefing schedule will result in efficiencies for the Court and all parties, especially since all parties request oral argument on this matter and agree that a single hearing should be held as to all Defendants' Motions to Dismiss; and

WHEREFORE, the parties respectfully request that this Court extend the briefing schedule as follows:

Plaintiffs shall respond to all Defendants' Motions to Dismiss on or before January 31, 2013; and

All Defendants shall submit their replies on or before February 21, 2013.

The parties agree that they will not request any further extensions to the Motions to Dismiss briefing schedule.

Dated: December 19, 2012

/s/ Sarah W. Steenhoek

E. Michelle Drake (*pro hac vice*)
drake@nka.com
Sarah W. Steenhoek (*pro hac vice*)
ssteenhoek@nka.com
Nichols Kaster, PLLP
4600 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
T: (612) 256-3200
F: (612) 215-6870

Peter H. Levan, Jr. (*pro hac vice*)
Edward W. Ciolko**
Donna Siegel Moffa**
Amanda Trask**
Kessler Topaz Meltzer & Check LLP
280 King of Prussia Road
Radnor, PA 19087
T: (610) 667-7706
F: (610) 667-7056

***pro hac vice applications forthcoming*

Shanon J. Carson**
Lawrence Deutsch**
Robin Switzenbaum**

***pro hac vice applications forthcoming*
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103
Telephone: (215) 875-4656
Fax: (215) 875-4604
Email: scarson@bm.net
ldeutsch@bm.net
rswitzenbaum@bm.net

Brett Cebulash**
Kevin S. Landau**

***pro hac vice applications forthcoming*
Taus, Cebulash & Landau, LLP
80 Maiden Lane, Suite 1204
New York, NY 10038
Telephone: (212) 931-0704
Fax: (212) 931-0703
Email: bcebulash@tcclaw.com
klandau@tcclaw.com

Respectfully submitted,

/s/ Brady A. Yntema

Bray A. Yntema, NC Bar No. 25771
byntema@nldhlaw.com
David L. Brown, NC Bar No. 18942
dbrown@nldhlaw.com
Nelson Levine Deluca & Hamilton, LLC
800 Green Valley Rd, Suite 302
Greensboro, NC 27408
T: (336) 419-4900
F: (336) 419-4950

Eric R. Dinallo (*pro hac vice*)
edinallo@debevoise.com
Robert D. Goodman (*pro hac vice*)
rdgoodman@debevoise.com
Debevoise & Plimpton, LLP
919 Third Avenue
New York, NY 10022
T: (212) 909-6000
F: (212) 521-7967

*Attorneys for Defendant Illinois Union
Insurance Company*

/s/ Robyn C. Quattrone

Robyn C. Quattrone (*pro hac vice*)
rquattrone@buckleysandler.com
Katherine Halliday (*pro hac vice*)
khalliday@buckleysandler.com
Buckley Sandler, LLP
1250 24th Street NW, Suite 700
Washington, DC 20037
T: (202) 349-8000
F: (202) 349-8080

Robert E. Harrington, NC Bar No. 26967
rharrington@rbh.com
Nathan C. Chase Jr., NC Bar No. 39314
nchase@rbh.com
Robinson, Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, NC 28246
T: (703) 377-8387
F: (703) 373-3987

Scott A. Shorr**

Tim S. DeJong**

***pro hac vice applications forthcoming*

Stoll Stoll Berne Lokting & Shlachter, P.C.

209 S.W. Oak Street, Fifth Floor

Portland, Oregon 97204

Telephone: (503) 227-1600

Fax: (503) 227-6840

Email: sshorr@stollberne.com

tdejong@stollberne.com

Seth E. Miles**

*** pro hac vice application forthcoming*

Grossman Roth, P.A.

2525 Ponce de Leon Blvd., Suite 1150

Coral Gables, FL 33134

Telephone: (888) 296-1681

Fax: (305) 285-1668

Email: SEM@grossmanroth.com

Edward F. Haber**

Adam S. Stewart**

*** pro hac vice applications forthcoming*

Shapiro Haber & Urmy, LLP

53 State Street

Boston, MA 02109

Telephone: (617) 439-3939

Fax: (617) 439-0134

Email: ehaber@shulaw.com

astewart@shulaw.com

Daniel Kent Bryson, NC Bar No. 15781

Karl Almenchenko, NC Bar No. 43387

dan@wbmlp.com

Whitfield, Bryson & Mason, LLP

900 W. Morgan Street

Raleigh, NC 27603

T: (919) 600-5000

F: (919) 600-5035

Attorneys for Plaintiffs David Holmes, Herta S. Theberge, Marguerite K. Potter, and the Marguerite K. Potter Revocable Trust

Attorneys for Defendant Seattle Specialty Insurance Services, Inc., in its own capacity and as successor in interest to Countrywide Insurance Services, Inc.

/s/ David L. Permut

David L. Permut (*pro hac vice*)

dpermut@goodwinprocter.com

Goodwin Procter LLP

901 New York Avenue, NW

Washington, DC 20001

T: (202) 346-4182

F: (202) 346-4444

Matthew G. Lindenbaum (*pro hac vice*)

mlindenbaum@goodwinprocter.com

Brian M. LaMacchia (*pro hac vice*)

blamacchia@goodwinprocter.com

David S. Kantrowitz (*pro hac vice*)

dkantrowitz@goodwinprocter.com

Goodwin Procter LLP

Exchange Place

Boston, MA 02109

T: (617) 570-8318

F: (617) 523-1231

Bradley R. Kutrow, NC Bar No. 13851

bkutrow@mcguirewoods.com

Brian A. Kahn, NC Bar No. 29291

bkahn@mcguirewoods.com

Steven N. Baker, NC Bar No. 36607

sbaker@mcguirewoods.com

McGuireWoods LLP

201 N. Tryon Street, Suite 3000

Charlotte, NC 28202

T: (704) 343-2262

F: (704) 353-6172

Attorneys for Defendant Bank of America, N.A., for itself and as successor by merger to BAC Home Loans Servicing, L.P.

/s/ Kevin M. O'Brien

Kevin M. O'Brien, NC Bar No. 43373

obrienk@phelps.com

GlenLake One

4140 ParkLake Ave, Suite 100
Raleigh, NC 27612-3723
T: (919) 789-5300
F: (919) 789-5301

*Attorney for Defendant Certain Underwriters
at Lloyd's, London, including all
underwriters at Lloyd's London who
underwrote force-placed wind insurance
policies for Bank of America as the insured
during the applicable statute of limitations
period*

CERTIFICATE OF SERVICE

I, Sarah W. Steenhoek, certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on December 19, 2012.

Dated: December 19, 2012

/s/ Sarah W. Steenhoek